

U.S. Bankruptcy Appellate Panel
of the Ninth Circuit

125 South Grand Avenue, Pasadena, California 91105

Appeals from Central California (626) 229-7220

Appeals from all other Districts (626) 229-7225

FILED

DEC 17 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

In Re: STEPHEN J.R. GOETZ and DIANA GOETZ

BAP No.: NC-07-1418

Bankruptcy No(s): 05-57623-MM

Adversary No(s): 06-5197

CV 07

6364

RMW

NOTICE OF TRANSFER OF APPEAL TO DISTRICT COURT

A party to the appeal has timely filed an objection to the disposition of this matter by the Bankruptcy Appellate Panel. See 28 USC Section 158. Consequently, this appeal is herewith transferred to SAN FRANCISCO DISTRICT COURT.

Please acknowledge receipt of the case file listed above by signing and returning a copy of this transmittal form.

Harold S. Marenus, BAP Clerk

By: Edwina Clay
Deputy Clerk

Date: December 10, 2007

Please acknowledge receipt of
the case file listed above.

Dated: _____

Signed: _____
District Court Deputy

Assigned District Court No.

cc: Bankruptcy Court
All Parties

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OFFICE OF THE CLERK
280 South First Street, Room 3035
San Jose, CA 95113-3099

FILED

RMW NOV 06 2007

CV 07
TRANSMITTAL FORM

6364

CLERK
United States Bankruptcy Court
San Jose, California

BAP# NC-07-1418

TO: Bankruptcy Appellate Panel of the Ninth Circuit, 125 S. Grand Avenue, Pasadena, CA, 91105

FILED

CASE NAME: Stephen J.R. Goetz and Diana Goetz

DEC 17 2007

BANKRUPTCY NO.: 05-57623-MM

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
RECEIVED
Harold S. Marquis, Clerk
U.S. BKCY APPEL PANEL
OF THE NINTH CIRCUIT

ADVERSARY PROCEEDING: John Challas v. Steven Goetz

ADVERSARY NO.: 06-5197

NOV - 8 2007

BANKRUPTCY JUDGE: Morgan

FILED

DOCKETED

DATE INITIAL

DATE NOTICE OF APPEAL FILED: 11/1/07

DATE OF ENTRY OF ISSUE: 10/22/07

DATE BANKRUPTCY FILED: 10/12/05

NOTICE OF OBJECTION FILED:

DATE OF TRANSMITTAL: 11/6/07

PLEASE STAMP YOUR CASE NUMBER on a copy of this transmittal form and return the copy to the bankruptcy court.

BROOK ESPARZA

Deputy Clerk

①

U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re
Stephen J.R. Goetz and

Case No. 05-57623-MM

FILED

Diana Goetz

Adversary No. 06-5197

NOV 06 2007

Debtor(s) /

CLERK
United States Bankruptcy Court
San Jose, California

John Challas

Chapter 11

Plaintiff
Plaintiff(s)

v.

CV 07

6364

Steven Goetz

Defendant(s)/

RMW

NOTICE OF REFERRAL OF APPEAL TO BANKRUPTCY APPELLATE PANEL

TO ALL PARTIES:

YOU AND EACH OF YOU are hereby notified that a notice of appeal has been filed by Stephen Goetz with the Clerk of the Bankruptcy Court. By virtue of the orders of the Judicial Council of the Ninth Circuit and the District Court for this district, the above appeal has been referred to the United States Bankruptcy Appellate Panel of the Ninth Circuit (BAP).

Dated: November 6, 2007

GLORIA L. FRANKLIN, Clerk

By: BROOK ESPARZA

Deputy Clerk

Re: 05-57623-MM
Adv. 06-5197

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
CERTIFICATE OF MAILING

I, the undersigned, a regularly appointed and qualified clerk in the office of the Northern District of California, San Jose, California, hereby certify:

That I, in the performance of my duties as such Clerk, served a copy of the foregoing document by depositing it in the regular United States mail at San Jose, California on the date shown below, in a sealed envelope bearing the lawful frank of the United States Bankruptcy Court addressed as listed below.

Stephen Goetz
13725 Robleda Rd.
Los Altos, CA 94022

George P. Eshoo, Esq.
Law Offices of Eshoo & Assoc.
702 Marshall Street #500
Redwood City, CA 94063

Clerk of the Bankruptcy Appellate
Panel
Attn. Edwina Clay
125 South Grand Ave.
Pasadena CA 91105

Daniel D. McGee, Esq.
Mark E. Ellis
Wendy D. Vierra, Esq.
Ellis, Coleman et al
555 University Avenue #200
Sacramento, CA 95825

Office of the U.S. Trustee
280 S. First St. Room 268
San Jose CA 95113

Dated: November 6, 2007

BROOK ESPARZA

Brook Esparza, Deputy Clerk

1
2 by placing a true copy thereof in the United States mail at San
3 Jose, California, postage prepaid, addressed as follows:

4 Daniel D. McGee, esq.
5 Ellis, Coleman, Poirer
6 555 University Avenue, Suite 200 East
7 Sacramento, CA 95825

8 George P. Eshoo, esq.
9 Law Offices of George P. Eshoo
10 702 Marshall Street, Suite 500
11 Redwood City, CA 94063

12 I declare under the penalty of perjury that the foregoing
13 is true and correct, and that this declaration was executed on
14 November 1, 2007, at San Jose, California.

15
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17
18 /s/Stanley Zlotoff
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21
22
23
24
25

Stephen Goetz
13725 Robleda Road
Los Altos, CA 94022
Telephone: (650) 941-6000
In Pro Per

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

RECEIVED
U.S. Bankruptcy Court
OF THE NINTH CIRCUIT

NOV - 8 2007

FILED _____
DOCKETED _____
DATE INITIAL

In re: Stephen J.R. Goetz) Chapter 11
And Diana Goetz,)
Debtors.) Case No.: 05-57623 MM
/ BAP# NC-07-1418
John Challas,)
Plaintiff,) Adv. Pro. No:06-5197
Vs.)
Steven Goetz, et.al.,)
Defendants. /

RMW

NOTICE OF APPEAL

Debtor-Defendant Stephen Goetz hereby appeals from the
Order determining non-dischargeability of Plaintiff's cause of
action for slander, which Order was entered on the Court's
docket on October 22, 2007.

The names of all parties to the Order and the names,
addresses and telephone numbers of their respective attorneys
are as follows:

1 Stephen Goetz
13725 Robleda Rd.
2 Los Altos, CA 94022
(650) 941-6000
3 Debtor-Defendant/Appellant In Pro Per

4 John Challas
Plaintiff/Appellee

George P. Eshoo, esq.
Law Offices of Eshoo & Assoc.
702 Marshall Street #500
Redwood City, CA 94063
(650) 364-7030

Daniel D. McGee, esq.
Mark E. Ellis
Wendy D. Vierra, esq.
Ellis, Coleman, Poirer & La Voie
555 University Avenue #200 #
Sacramento, CA 95825
(916) 283-8820

12 Dated: November 1, 2007

15 /s/Stephen Goetz

Mark E. Ellis # 127159
Daniel D. McGee # 218947
Ellis, Coleman, Poirier, LaVoie, & Steinheimer LLP
555 University Avenue, Suite 200 East
Sacramento, CA 95825
Tel. (916) 283-8820
Fax (916) 283-8821

RECEIVED
Harold S. Marquis, Clerk
U. S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

NOV 26 2007

FILED 11-26-07
DOCKETED 11-30-07
DATE INITIAL

George P. Eshoo - 39081
Law Offices of George P. Eshoo & Associates
702 Marshall Street, Suite 500
Redwood City, CA 94063
Tel: (650) 364-7030
Fax: (650) 364-3054

Attorneys for Plaintiff JOHN CHALLAS

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

CV 07

6364

In re: Stephen J.R. Goetz and Diana
Goetz,

Chapter 11

Debtors.

Case No. 05-57623 MM

RMW

Adversary Proceeding No. 06-5197

John Challas,

**PLAINTIFF JOHN CHALLAS'S OBJECTION TO
APPEAL BEING HEARD AND DETERMINED BY
BANKRUPTCY APPELLATE PANEL**

Plaintiff,

v.

Steven Goetz, and DOES 1 through 20,
Inclusive,

Defendants.

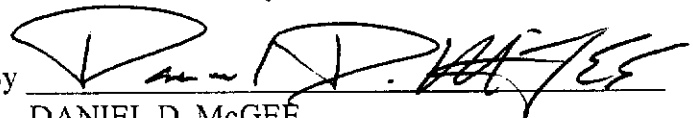
Pursuant to General Order No. 24, Part II, sections 2.01(b) and 2.02(a), and the Judicial Council of the Ninth Circuit's Amended Order Establishing and Continuing the Bankruptcy Appellate Panel of the Ninth Circuit ("BAP"), Plaintiff JOHN CHALLAS ("Mr. Challas") hereby objects to the BAP hearing and determining Defendant Stephen Goetz's appeal of the order determining the non-

1 dischargeability of Mr. Challas's cause of action for slander, which order was entered on the
2 Bankruptcy Court's docket on October 22, 2007. Mr Challas further requests that said appeal be
3 transferred to the United States District Court for the Northern District of California.
4

5
6 Dated: November 20, 2007

ELLIS, COLEMAN, POIRIER, LAVOIE, &
STEINHEIMER LLP

7
8 By



DANIEL D. McGEE

Co-Counsel for Plaintiff JOHN CHALLAS
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CERTIFICATE OF SERVICE

I, Alexandria M. Felix, declare:

I am a citizen of the United States, am over the age of eighteen years, and am not a party to or interested in the within entitled cause. My business address is 555 University Avenue, Suite 200 East, Sacramento, CA 95825.

On November 20, 2007, I served the following document(s) on the parties in the within action:

**PLAINTIFF JOHN CHALLAS'S OBJECTION TO APPEAL BEING HEARD AND
DETERMINED BY BANKRUPTCY APPELLATE PANEL**

X	BY MAIL: I am familiar with the business practice for collection and processing of mail. The above-described document(s) will be enclosed in a sealed envelope, with first class postage thereon fully prepaid, and deposited with the United States Postal Service at Sacramento, CA on this date, addressed as follows:
	BY HAND: The above-described document(s) will be placed in a sealed envelope which will be hand-delivered on this same date by _____, addressed as follows:
	VIA FACSIMILE: The above-described document(s) was transmitted via facsimile from the fax number shown on the attached facsimile report, at the time shown on the attached facsimile report, and the attached facsimile report reported no error in transmission and was properly issued from the transmitting facsimile machine, and a copy of same was mailed, on this same date to the following:
	VIA OVERNIGHT SERVICE: The above-described document(s) will be delivered by overnight service, to the following:

Stephen Goetz
13725 Robleda Road
Los Altos, CA 94022

In Pro Per

George P. Eshoo, Esq.
Law Offices of George P. Eshoo et al.
702 Marshall Street, Suite 500
Redwood City, CA 94063

Co-Counsel for John Challas

Clerk of The Bankruptcy Appellate Panel
125 South Grand Avenue
Pasadena, CA 91105

I declare under penalty of perjury under the laws of the State of California that the foregoing is a true and correct statement and that this Certificate was executed on November 20, 2007.

By


Alexandria M. Felix

- 3 -

ELLIS, COLEMAN
POIRIER, LA VOIE & STEINHEIMER, LLP

555 UNIVERSITY AVENUE, SUITE 200 EAST
SACRAMENTO, CA 95825
TEL: (916) 283-8820 FAX: (916) 283-8821
e-mail: afelix@ecplslaw.com

RECEIVED
Harold S. Marshall, Clerk
U.S. BKCY APP. PANEL
OF THE NINTH CIRCUIT

November 20, 2007

NOV 26 2007

VIA OVERNIGHT MAIL

Clerk of the Court
U.S. Bankruptcy Court
Northern District of California
280 South First Street, Room 3035
San Jose, CA 95113

FILED _____
DOCKETED _____
DATE INITIAL

RMW

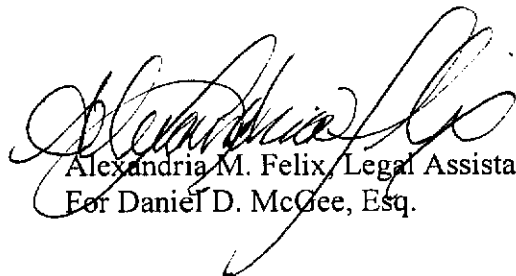
RE: **CHALLAS v. GOETZ**
Adversary Proceeding No. 06-5197
Bankruptcy Case No. 05-57623
BAP No. NC-07-1418

Dear Clerk:

Please find enclosed an Original Objection to Appeal being Heard and Determined by Bankruptcy Appellate Panel, as well as 3 copies of the same. Please file the original, and return 2 endorsed copies in the also enclosed self addressed stamped envelope.

If you have any questions in this regard, please feel free to contact our office.

Very truly yours,


Alexandria M. Felix, Legal Assistant
For Daniel D. McGee, Esq.

cc:

[REDACTED]

U.S. Bankruptcy Appellate Panel
of the Ninth Circuit
125 South Grand Avenue, Pasadena, California 91105
Appeals from Central California (626) 229-7220
Appeals from all other Districts (626) 229-7225

RE: STEPHEN J.R. GOETZ and DIANA GOETZ *Listing*

Appellant: Stephen J.R. Goetz

BAP No: NC-07-1418

CV 07

6364

BK. NO: 05-57623-MM

ADV. No(s): 06-5197

RMW

OPENING LETTER

Notice of Appeal in this case has been received by the Bankruptcy Appellate Panel (BAP) and assigned the case number above. All papers filed with the BAP should be in the form of an original and three copies.

The BAP docket and other court information is available through the National PACER system. <http://pacer.bap09.uscourts.gov>

Enclosed are the 9th Cir. BAP Rules governing practice before the BAP. Appeals are also governed by Parts VIII and IX of the Federal Rules of Bankruptcy Procedure (F.R.B.P.), and some parts of the Federal Rules of Appellate Procedure (F.R.A.P.) and the local rules of the Ninth Circuit (Circuit Rules). See 9th Cir. BAP Rule 8018(b)-1.

Pursuant to 9th Cir. BAP Rule 8001(a)-1, please immediately send the BAP Clerk a copy of the signed and entered order or judgment being appealed if it was not attached to your notice of appeal.

After a Notice of Appeal has been filed, the parties' next step in prosecuting this appeal is compliance with F.R.B.P. 8006 and 8007, which require Appellant to file within 10 days in the bankruptcy court a designation of record, statement of issues on appeal, and a notice regarding the ordering of transcripts. Under these rules Appellee may also file a supplemental designation of record and order transcripts. The party ordering the transcripts must make satisfactory arrangements for payment of their costs.

Even if transcripts are not ordered, Appellant is required to file with the bankruptcy court a notice stating that none are required. See also 9th Cir. BAP R. 8006-1.

The parties should note that the designation of record under F.R.B.P. 8006 is a necessary procedural step in prosecuting an appeal and the parties may not later include in their excerpts of the record documents which have not been designated.

The record and bankruptcy file remain with the Clerk of the bankruptcy court and the Panel reviews only those items which are reproduced and included in the excerpts of the record filed at the time of the briefs. While the Panel may call up the formal record, in practice this rarely occurs.

Further, it is the parties' responsibility to monitor the appeal to ensure that transcripts are timely filed and the record is completed in a timely manner. Under F.R.B.P. 8007(a), the court reporter is required to file transcripts within 30 days of receipt of the parties' request, unless an extension has been granted.

After the record is complete, the Clerk of the bankruptcy court will send a Certificate of Record, sometimes referred to as a Certificate of Readiness or Certificate of Transcripts, to the BAP Clerk. This triggers the issuance of the briefing schedule by the BAP Clerk. The briefing schedule contains time deadlines and instructions regarding filing of briefs. However, the parties should be aware that the time periods set forth in the briefing schedule are relatively short and extensions of time greater than 15 days are generally granted only based on a showing of good cause. See F.R.B.P. 8009 and 9th Cir. BAP R. 8009(a)-1.

Appeals are set for hearing in the bankruptcy district from which the appeal arose whenever feasible. To expedite the appeal or if the parties feel argument is unnecessary, they may file a stipulation or motion to submit their appeal on the briefs and record, thereby waiving oral argument. The Panel will also consider stipulations requesting an alternative hearing location or hearing by telephone conference. Such motions should be filed at the earliest possible date, generally with the opening brief, as once a case has been scheduled for argument, continuance and request to change time and place are rarely granted.

CERTIFICATE OF MAILING

The undersigned, deputy clerk of the U.S. Bankruptcy Appellate Panel of the Ninth Circuit, hereby certifies that a copy of the document on which this certificate appears was transmitted this date to all parties of record to this appeal.

By: Edwina Clay

Deputy Clerk: November 13, 2007

F I L E C O P Y

U. Bankruptcy Appellate Panel
of the Ninth Circuit

125 South Grand Avenue, Pasadena, California 91105
Appeals from Central California (626) 229-7220
Appeals from all other Districts (626) 229-7225

TO: Clerk, Bankruptcy Court, San Jose (Attn: Brook)

DEBTOR(S): STEPHEN J.R. GOETZ and DIANA GOETZ

BAP NO.: NC-07-1418

BK. NO.: 05-57623-MM

ADV. NO.: 06-5197

INTERNAL BK. CT. NO.:

The Bankruptcy Appellate Panel has received and docketed the notice of appeal. The BAP case number is indicated above for your information.

If completion of the record has been delayed, please advise us as to the cause of the delay by completing the following checklist and sending a copy of this letter back to us:

IF THE RECORD ON APPEAL IS COMPLETE, PLEASE SEND THE CERTIFICATE OF READINESS

Harold S. Marenus, BAP Clerk

By: Edwina Clay
Deputy Clerk

Date: November 13, 2007

A) REASONS WHY THE RECORD HAS NOT BEEN COMPLETED. THE FOLLOWING ITEMS HAVE NOT BEEN FILED:

1. _____ No Filing Fees paid
2. _____ No Designation of Record
3. _____ No Statement of Issues
4. _____ No Notice Regarding the Transcript
5. _____ No Reporter's Transcript(s)
Reporter name: _____
phone: _____
Judge: _____
Transcript date(s): _____
6. _____ No Transcript Fees paid
7. _____ Extension of Time Granted to Reporter:
New deadline: _____
8. _____ Other: _____

B) DEPUTY CLERK PROCESSING THIS APPEAL

1. Name: _____
2. Phone: _____
3. Date: _____

Proceedings include all events.
07-1418 Goetz, et al v. Challas

In re: STEPHEN J.R. GOETZ
Debtor

In re: DIANA GOETZ
Debtor

STEPHEN J.R. GOETZ
Appellant

Stephen J.R. Goetz
650/941-6000
[COR LD NTC prs]
13725 Robleda Road
Los Altos, CA 94022

v.

JOHN CHALLAS
Appellee

George P. Eshoo, Esq.
415/364-7030
[COR LD NTC ret]
GEORGE P. ESHOO & ASSOCIATES
702 Marshall Street
Suite 500
Redwood City, CA 94063

Daniel D. McGee, Esq.
916/283-8820
Suite 200 E
[COR LD NTC ret]
ELLIS, COLEMAN, POIRER & LAVOIE
555 University Avenue
Sacramento, CA 95825



NOT INTENDED FOR PUBLICATION

The following constitutes

the order of the court. Signed October 19, 2007

Marilyn Morgan

Marilyn Morgan
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

CV 07

6364

In re STEPHEN J.R. GOETZ and DIANA
GOETZ,

Debtors.

Case No. 05-57623-MM

Chapter 11

RMW

JOHN CHALLAS,

Plaintiff,

Adversary No. 06-5197

vs.

STEVEN GOETZ and Does 1 through 20
inclusive,

Defendants.

**MEMORANDUM DECISION
FOLLOWING EVIDENTIARY
HEARING**

INTRODUCTION

John Challas alleges that the debtor, Stephen Goetz, slanderously told other people that Challas had admitted to a variety of criminal conduct, including breaking and entering, burglary and theft. Goetz moved to dismiss the complaint asserting that Challas knew or should have known of any claim for slander prior to the confirmation of Goetz's plan of reorganization, and as a result, the claim was discharged when Goetz's plan of reorganization was confirmed. Because the parties' motion papers relied on declarations and other evidence, the court treated the motion as a motion for summary judgment. After two contradictory affidavits created a clear question of fact, the parties agreed to hold

1 an evidentiary hearing solely with respect to the potentially dispositive issue of when the cause of action
 2 for slander against Goetz was first within Challas' fair contemplation. Based on the evidence adduced
 3 and the arguments of counsel, and for the reasons explained, the court concludes that the cause of action
 4 alleged in the adversary complaint was not within Challas' fair contemplation at the time that Goetz's
 5 plan of reorganization was confirmed and, therefore, was not discharged.

7 FACTS

8 Challas and Goetz are long-time acquaintances as a result of commercial real estate activities
 9 in Los Altos, California. Jane Challas, John's wife, is a shareholder of 4920 Corporation ("4920"), a
 10 company that owns a building located at 4920 El Camino Real in Los Altos. From time to time, Challas
 11 has been an agent for the property. The Goetz family, and later Goetz himself, owned a nearby building
 12 located at 4906 El Camino Real. The business connection between Challas and Goetz developed into
 13 something of a friendship among the two men and their wives. However, Challas testified that the
 14 relationship deteriorated significantly when Challas agreed to serve as a witness against Goetz in a 2001
 15 state court action. In that action, members of the Goetz Family Trust accused Goetz of fraud and other
 16 breaches of fiduciary duty arising out of Goetz's purchase of the 4906 building from his father, shortly
 17 before his father's death. Challas indicated that the friendship ended in 2002 when Goetz sent Challas
 18 an email concerning Challas' use of Goetz's Chevy Suburban. The details surrounding the email were
 19 not offered into evidence.

20 Beginning in 2000, a law firm known as Reynolds, Casas & Riley, LLP became a tenant at 4920,
 21 El Camino Real, and Challas hired Goetz's wife, Diana, to decorate the firm's suite. The landlord-
 22 tenant relationship, however, was contentious. By May 2003, 4920 had initiated a state court unlawful
 23 detainer action to evict RC&R from the premises. A few months later, in August 2003, RC&R filed a
 24 separate state court action against 4920 asserting various tort and breach of contract claims ("RC&R
 25 action"). The RC&R complaint alleges, in part, that Challas, along with several other defendants,
 26 conspired to and did enter RC&R's office suite on June 16, 2002 with a hidden purpose of stealing
 27 RC&R's copy of its office lease, altering the copy to reflect higher rates of rent than RC&R had agreed
 28 to pay, and destroying the original lease. The complaint further alleges that 4920's unlawful detainer

1 action was premised on the wrongfully altered lease. The allegations regarding Challas and the
2 alteration of the lease are on information and belief. The attorney who drafted the complaint, Samuel
3 Goldstein, testified that before the complaint was filed, Sheila Riley, a principal of RC&R, had advised
4 him that, nearly a year earlier, she had had a conversation with Goetz in which Goetz told her that
5 Challas had bragged to Goetz about entering into the RC&R offices and removing documents.
6 Goldstein noted, however, that Riley had instructed him not to identify Goetz as the source of the
7 information.

8 Early in the RC&R action, the state court stayed discovery, and 4920 did not serve its first set
9 of interrogatories on RC&R until February 2006. One of those interrogatories asked RC&R to identify
10 all individuals who: a) witnessed the alleged June 16, 2002 trespass into RC&R or the events occurring
11 immediately before or after the incident; b) made a statement at the scene of the alleged trespass into
12 RC&R; c) heard any statements made about the alleged trespass into RC&R by an individual at the
13 scene; and d) may have knowledge of the alleged trespass into RC&R. Although RC&R was aware that
14 Goetz claimed to have heard statements about the incident from Challas, RC&R did not specifically
15 identify Goetz in response to subpart c) of the interrogatory. Instead, RC&R stated that it lacked
16 sufficient information to respond. However, in response to subpart d), RC&R included Goetz and his
17 wife in the middle of a list of approximately sixteen individuals or entities who might have knowledge
18 of the incident.

19 On June 6, 2006, this court entered an order confirming the Goetz' chapter 11 plan of
20 reorganization. Goetz and his wife had filed a chapter 11 petition eight months earlier, in October 2005,
21 because the fraud and breach of fiduciary duty lawsuit filed by the Goetz Family Trust had resulted in
22 a judgment against Goetz. The Goetz schedules listed Challas as a creditor holding an unsecured claim
23 of \$75,000 related to "attorneys' fees."

24 Six weeks after confirmation, on July 26, 2006, Riley gave her deposition in the RC&R action.
25 Challas was present for her testimony. Riley stated that back on August 22, 2002, she had telephoned
26 Diana Goetz, the decorator for the RC&R office space, because Riley had just received a letter from
27 4920 indicating the RC&R owed 4920 money for things that the firm never heard about. Diana Goetz
28 asked her husband to come to the phone and, when he did, Goetz told Riley that Challas had bragged to

1 Goetz about planning the June 16, 2002 incident at RC&R's office. Goetz told Riley that Challas was
2 an evil man and that Challas had said that while he was in the office, he had copied papers from
3 RC&R's lease file in order to "get" the law firm. Goetz stated that Challas had shown him some of the
4 copies, but Goetz told Riley that he would deny ever speaking with Challas because he and John "had
5 things on each other."

6 Both Challas and Chris Ashworth, an attorney that initially represented Challas in the both the
7 unlawful detainer and the RC&R actions, testified at trial that they first learned that Goetz was the
8 source of the information behind the trespass allegations in the RC&R action during or after Riley's
9 deposition. Shortly after the Riley deposition, Challas contacted George Eshoo, his counsel in this
10 adversary proceeding, and asked for legal assistance because Goetz was spreading lies about him. In
11 mid-October 2006, Challas filed a state court slander action against Goetz. That complaint was removed
12 to this court and serves as the basis of this adversary proceeding.

13 To counter Challas' evidence that he did not fairly contemplate a claim against Goetz until he
14 heard Riley's deposition testimony, Goetz offered his own testimony and that of RC&R's state court
15 attorney, Goldstein. Goetz testified that Challas often complained bitterly about RC&R's failure to pay
16 rent and how he wanted to get the firm out of the 4920 building. Then, a few days after June 16, 2002,
17 Goetz was sitting on his patio with his wife when Challas telephoned. When Goetz answered, Challas
18 bragged that he had "solved his problem" with RC&R. Challas told Goetz that he, Challas, had gone
19 into RC&R's office, removed some documents, and solved his problem. Challas denies that this
20 telephone conversation ever took place and denies that he ever removed any documents from RC&R's
21 office suite.

22 In addition to the filing of the complaint in the RC&R action, Goldstein testified that there were
23 several occasions prior to June 2006 when Challas either knew of or should have fairly contemplated
24 his slander action against Goetz. First, in July 2003, Goldstein deposed Challas as part of 4920's
25 unlawful detainer action. At that deposition, Goldstein asked Challas pointed questions about whether
26 Challas had ever told anyone that Challas had taken documents from RC&R's offices. Within the next
27 few weeks, Goldstein had a conversation with Ashworth where Ashworth specifically asked whether
28 it was Goetz that had said that Challas was talking about the June 16, 2002 incident. Although

1 Goldstein told Ashworth that he could not respond, Goldstein believes the conversation demonstrates
2 that Challas knew that Goetz was the source of the information. Goldstein recalls that he surprised that
3 Ashworth named Goetz because Riley had instructed Goldstein to take care not to reveal Goetz as the
4 source of the information. Goldstein assumed that Ashworth must have learned Goetz's identity directly
5 from Challas.

6 Goldstein further stated that RC&R's March 2006 answers to 4920's interrogatories should have
7 put Challas on notice that Goetz was the source of the allegations that Challas had taken documents from
8 RC&R. The responses identified Mr. and Mrs. Goetz as individuals who might have knowledge of the
9 June 16, 2002 incident, and their names should have stood out because they were the only individuals
10 identified that were not related to RC&R, 4920 or the local authorities. Then, sometime in June 2006,
11 RC&R responded to additional special interrogatories that 4920 had propounded. Goldstein recalls that
12 those interrogatories referred more explicitly to Goetz as the source of the allegations regarding Challas
13 and the June 16, 2002 incident. The actual responses, however, were not offered into evidence, and it
14 is not known whether those responses were served before confirmation on June 6, 2006.

15 DISCUSSION

16 Under § 1141(d), confirmation of a chapter 11 plan discharges the debtor from any debt or claim
17 that arose before the date of confirmation. The Ninth Circuit uses the "fair contemplation" test to
18 determine when a claim arises. *See In re Cool Fuel, Inc.*, 210 F.3d 999 (9th Cir. 2000)(tax claims);
19 *Corman v. Morgan (In re Morgan)*, 197 B.R. 892 (N.D. Cal. 1996)(fraud prevention), *aff'd*, 131 F.3d
20 147 (9th Cir. 1997); *In re Jensen*, 995 F.2d 925 (9th Cir. 1993)(environmental clean-up under CERCLA).
21 Under this test, the court must consider whether Challas had a fair basis for contemplating that he might
22 have a claim against the debtor prior to the confirmation of the debtor's plan. *Morgan*, 197 B.R. at 899.
23 If yes, the claim is discharged by the confirmation, but if not, the claim is not discharged.

24 Consistent with the goal of providing debtors with a fresh start, the Bankruptcy Code broadly
25 defines the term "claim" to include any right to payment from the debtor, regardless of whether that right
26 is liquidated, contingent, matured or disputed.. *See* 11 U.S.C. § 101(5). Thus, a claim can arise before
27 actual injury occurs or before all the jurisdictional prerequisites to bringing the claim are satisfied.
28 Nevertheless, in choosing the fair contemplation test, the Ninth Circuit rejected the notion that claims

can be discharged before a creditor knows or should know that it has rights against the debtor. *Jensen*, 995 F.2d at 931-32; *In re Conseco Life Insurance Co. Cost of Insur. Litigation*, 2005 WL 2203150, at *8 (N.D. Cal. Apr. 13, 2005). As a result, a claim will not be discharged unless, prior to confirmation, the creditor had real or constructive notice of all the facts needed to reasonably anticipate a potential claim against the debtor.

Here, Challas testified that he had no reason to believe Goetz had slandered him until he heard Riley's deposition testimony in July 2006, about six weeks after Goetz's plan of reorganization was confirmed. To counter this prima facie showing, Goetz must demonstrate that the existence of facts and circumstances from which Challas should have fairly contemplated that he had a potential slander claim against Goetz prior to June 6, 2006.

I. The Allegations of RC&R's 2003 Complaint Were Insufficient to Make Challas Fairly Contemplate a Slander Action Against Goetz.

Although Challas was named as a defendant in the RC&R action, the allegations that Challas conspired with other individuals to break into the law firm and remove documents were all on "information and belief." Further, the complaint contained no facts establishing the basis of that information and belief. As a result, there was nothing in RC&R's complaint to suggest that Goetz might have been the source of any allegations, much less that he had allegedly slandered Goetz by telling other people that Challas had admitted that he was involved in the break-in. Significantly, Goldstein testified to the contrary. From the outset, he had been specifically instructed to protect Goetz's identity from discovery. Thus, it appears that the complaint was carefully drafted to avoid identifying Goetz. Finally, with discovery stayed, Challas was denied all opportunity to investigate the source of the allegations until the stay was lifted. Under these facts, it cannot be said that the mere existence of RC&R's lawsuit reasonably put Challas on notice of a slander action against Goetz.

II. The March 2006 Responses to Interrogatories Were Not Sufficient to Cause Challas to Fairly Contemplate a Slander Action Against Goetz.

As noted above, from the beginning of the RC&R action, Goldstein was operating under instructions to avoid revealing Goetz's identity. His effort to comply with his client's instructions is

1 evident from his carefully crafted response to 4920's first set of interrogatories. He avoided identifying
2 Goetz as someone who had heard statements from any other person who had been at the scene of the June
3 16, 2002 incident. Rather, he more ambiguously identified Mr. and Mrs. Goetz, together, as people that
4 might have some knowledge of the June 16, 2002 incident. This response certainly creates no specific
5 impression that Goetz had been spreading slanderous statements about Challas.

6 Additionally, the court is not persuaded that the inclusion of Mr. and Mrs. Goetz's names should
7 have stood out to Challas and, as a result, put him on notice to inquire further. First, there is no evidence
8 that Challas himself ever saw the discovery responses. After receiving RC&R's complaint, Challas hired
9 attorneys and left the handling of the RC&R action in his attorneys hands. Challas testified that he had
10 no idea what his attorney sent out as discovery, and he has no recollection of any particular conversation
11 with his counsel regarding discovery. Challas does not recall going over RC&R's interrogatory response
12 that identifies Goetz as a person that might have knowledge, and he had no conversations with his
13 attorney regarding any specific person as the perpetrator of the allegations surrounding the June 16, 2002
14 incident. There is also no reason to believe that including both Mr. and Mrs. Goetz in the interrogatory
15 responses would have stood out to Challas' attorneys. Ashworth testified that he believed he had heard
16 of Goetz because Goetz had some kind of management role related to 4920. This suggests that Ashworth
17 would not have considered the inclusion of the Goetz name as unusual. Further, there is no evidence
18 indicating that Margaret Schneck, who replaced Ashworth as Challas' counsel, would have identified the
19 Goetz name as unusual.

20
21 **III. Goetz's Testimony That Challas Discussed the June 16, 2002 Incident With Goetz Is Not**
22 **Credible.**

23 At trial, Goetz asserted for the first time that Challas should have fairly contemplated a potential
24 slander action against Goetz as early as June 2002 when Challas allegedly told Goetz that he had
25 removed and altered documents located in RC&R's office suite. Goetz reasons that once Challas
26 revealed such stunning information, Challas should have fairly contemplated that Goetz would repeat the
27 information to others. Because truth is a defense to slander, the court expects that whether or not Challas
28 actually made admissions to Goetz will be hotly disputed at any trial on the merits of this slander action.

1 However, in determining whether the matter can proceed to trial, the court concludes that it is enough
2 that Goetz's credibility regarding the alleged admissions is highly doubtful. Near the time of the June
3 2002 incident, Goetz was questioned by the local police investigating the incident. The police
4 specifically asked Goetz if Challas had told Goetz that Challas was involved in the break-in, but Goetz
5 denied that any such conversation with Challas had ever taken place. Goetz contends that he lied to the
6 police but now has testified truthfully about his conversation with Challas on the witness stand. The
7 court does not know yet whether Goetz lied to the police or lied in court, but Goetz's willingness to lie
8 to authorities has substantially damaged his credibility. It is also significant that questions regarding
9 Goetz's honesty stretch beyond this adversary proceeding. The precipitating event for the Goetz's
10 chapter 11 case was the entry of a judgment for fraud and breach of fiduciary duty against Goetz in the
11 lawsuit filed by other members of his family. Finally, it is questionable that, in June 2002, Challas would
12 have trusted Goetz enough to make the alleged admissions to him. By that time, the friendship between
13 Goetz and Challas was ending, and Challas had agreed to be a witness against Goetz in the fraud action
14 against Goetz.

15 In light of all of these factors, the court concludes that evidence offered to date is too doubtful
16 to overcome Challas' denial that the conversation with Goetz ever took place and his affirmative
17 testimony that he first learned of Goetz's slanderous statements in July 2006. As a result, the record does
18 not adequately demonstrate that Challas fairly contemplated the potential for a slander action against
19 Goetz prior to the June 2006 confirmation of Goetz's plan of reorganization. What additional evidence
20 can be offered at a trial on the merits remains to be seen.

21 22 CONCLUSION

23 Based on the foregoing, the court concludes that the cause of action for slander alleged in the
24 adversary complaint was not within Challas' fair contemplation at the time the plan of reorganization was
25 confirmed. As a result, the cause of action was not discharged upon confirmation.

26 Good cause appearing, IT IS SO ORDERED.

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28 ***** END OF ORDER *****

1 Adv. P. 06-5197

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UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
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UNITED STATES BANKRUPTCY COURT
For The Northern District Of California

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4
5 UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

6
7 CV 07

6364

8 In re: Stephen J.R. Goetz) Chapter 11
9 And Diana Goetz,)
Debtors.) Case No.: 05-57623 MM

RMW

10
11 John Challas,)
12 Plaintiff,) Adv. Pro. No:06-5197
13 Vs.)
14 Steven Goetz, et.al.,)
15 Defendants. /

16 STATEMENT OF ISSUES AND DESIGNATION OF THE RECORD

17 Debtor-Defendant and Appellant Stephen Goetz hereby
18 submits his Statement of Issues and Designation of the Record
19 on Appeal.

20 STATEMENT OF ISSUES

21 Did the Court misinterpret or misapply the "fair
22 contemplation" test?

23 Did the Court use an incorrect legal standard with respect
24 to ruling on cross motions for summary judgment?

25 DESIGNATION OF THE RECORD

The record on this appeal consists of:

	<u>Item NO.</u>	<u>Description</u>	<u>Date Filed</u>	<u>Dkt. NO.</u>
2	1	Docket Sheet	n/a	n/a
3	2	Notice of Removal	11/2/2006	1
4	3	Motion to Dismiss	11/22/2006	3
5	4	Notice of Hearing	12/11/2006	4
6	5	Response	2/2/2007	8
7	6	Reply including		
8		Attached Declaration	3/1/2007	9
9	7	Objections	3/30/2007	10
10	8	Declaration	3/30/2007	11
11	9	Declaration	4/4/2007	12
12	10	Transcript	5/15/2007	14
13	11	Request to Take Judicial		
14		Notice	7/13/2007	18
15	12	Additional Request	7/13/2007	19
16	13	Chronology	7/13/2007	20
17	14	Transcript	10/3/2007	21
18	15	Memorandum Decision	10/19/2007	22
19	16	Trial Exhibits 1-4	n/a	n/a
20	17	Notice of Appeal	11/2/2007	24

Dated: 11/1/2007

/s/Stephn Goetz

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Attorney for Debtor

**UNITED STATES BANKRUPTCY COURT
 NORTHERN DISTRICT OF CALIFORNIA**

In re: Stephen J.R. Goetz) Chapter 11
)
And Diana Goetz,)
) Case No.: 05-57623 MM
Debtors.)
	/
John Challas,)
)
Plaintiff,) Adv. Pro. No: 06-5197
)
Vs.)
)
Steven Goetz, et.al.,)
)
Defendants.	/

CERTIFICATE OF SERVICE BY U.S. MAIL

I declare that I am employed in the county of Santa Clara, California; I am over the age of eighteen years and not a party to the within action; my business address is 300 S. First St, Suite 215, San Jose, California 95113.

On November 1, 2007, I served by U.S. Mail the foregoing:

**Notice of Appeal and Statement of Issues and Designation
 of the Record**

Exhibits, APPEAL

**U.S. Bankruptcy Court
Northern District of California (San Jose)
Adversary Proceeding #: 06-05197**

Assigned to: Judge Marilyn Morgan

E-1119

Date Filed: 11/02/06

Related BK Case: 05-57623Related BK Title: Stephen John Robert Goetz and Diana
Patricia Goetz

Related BK Chapter: 11

Demand:

Nature[s] of 01 Determination of removed claim or
Suit: cause**CV 07****6364****RMW****Plaintiff**
-----**John Challas**190 Mt. Hamilton
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()
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V.

Defendant

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represented by **Stanley A. Zlotoff**
(See above for address)

Filing Date	#	Docket Text
11/02/2006	<u>1</u>	Adversary case 06-05197. 01 (Determination of removed claim or cause). Notice of Removal by John D. Challas . Fee Amount \$250 . (tp,) (Entered: 11/02/2006)
11/02/2006		Receipt of Adversary Filing Fee. Amount 250.00 from Stephen Goetz. Receipt Number 50064859. (tp) (Entered: 11/02/2006)
11/06/2006	<u>2</u>	Order for Telephonic Status Conference with Certificate of Service. . Status Conference to be held on 2/6/2007 at 10:30 AM at SanJose Courtroom 3070 - Morgan. (cvc,) (Entered: 11/06/2006)
11/22/2006	<u>3</u>	Motion to Dismiss Adversary Proceeding Filed by Plaintiff John D. Challas. (Attachments: # <u>1</u> Memorandum of Points and Authorities) (Zlotoff, Stanley) (Entered: 11/22/2006)
12/11/2006	<u>4</u>	Notice of Hearing (RE: related document(s) <u>3</u> Motion to Dismiss Adversary Proceeding filed by Plaintiff John D. Challas). Hearing scheduled for 1/12/2007 at 11:00 AM at SanJose Courtroom 3070 - Morgan. Filed by Defendant Steven Goetz. (Attachments: # <u>1</u> Certificate of Service) (Zlotoff, Stanley) (Entered: 12/11/2006)
01/04/2007	<u>5</u>	Notice of Continued Hearing (RE: related document(s) <u>3</u> Motion to Dismiss Adversary Proceeding filed by Plaintiff John D. Challas). Hearing to be held on 2/9/2007 at 11:00 AM SanJose Courtroom 3070 - Morgan for <u>3</u> , Filed by Defendant Steven Goetz. (Attachments: # <u>1</u> Certificate of Service) (Zlotoff, Stanley) (Entered: 01/04/2007)
01/24/2007	<u>6</u>	Notice of Continued Hearing (RE: related document(s) <u>3</u> Motion to Dismiss Adversary Proceeding filed by Plaintiff John D. Challas). Hearing to be held on 3/9/2007 at 11:00 AM SanJose Courtroom 3070 - Morgan for <u>3</u> , Filed by Defendant Steven Goetz. (Attachments: # <u>1</u> Certificate of Service) (Zlotoff, Stanley) (Entered: 01/24/2007)

02/02/2007	● <u>7</u>	Case Management Conference Statement . (RE: related document(s) <u>2</u> Order for Telephonic Status Conference). Filed by Defendant Steven Goetz (Attachments: # <u>1</u> Certificate of Service) (Zlotoff, Stanley) (Entered: 02/02/2007)
02/02/2007	● <u>8</u>	Response to (RE: related document(s) <u>3</u> Motion to Dismiss Adversary Proceeding). Filed by Plaintiff John D. Challas w/cos. (be,) (Entered: 02/05/2007)
02/06/2007	●	Hearing Continued (RE: related document(s) <u>2</u> Order for Telephonic Status Conference with Certificate of Service. . Status Conference to be held on 4/10/2007 at 10:30 AM SanJose Courtroom 3070 - Morgan for <u>2</u> . (mem,) (Entered: 02/06/2007)
03/01/2007	● <u>9</u>	Reply to (RE: related document(s) <u>3</u> Motion to Dismiss Adversary Proceeding). Filed by Defendant Steven Goetz (Attachments: # <u>1</u> Declaration of Samuel E. Goldstein# <u>2</u> Certificate of Service) (Zlotoff, Stanley) (Entered: 03/01/2007)
03/09/2007	●	Hearing Continued (RE: related document(s) <u>3</u> Motion to Dismiss Adversary Proceeding Filed by Plaintiff John D. Challas. (Zlotoff, Stanley)). Hearing to be held on 4/9/2007 at 11:00 AM SanJose Courtroom 3070 - Morgan for <u>3</u> . Telephonic CMC now set for 4/10/07 at 10:30 a.m. is continued to 6/12/07 at 10:30 a.m. (mem,) (Entered: 03/09/2007)
03/09/2007	●	Hearing Continued (RE: related document(s) <u>2</u> Order for Telephonic Status Conference with Certificate of Service. Status Conference to be held on 6/12/2007 at 10:30 AM SanJose Courtroom 3070 - Morgan for <u>2</u> . (mem,) (Entered: 03/09/2007)
03/30/2007	● <u>10</u>	Objections to Evidence Filed by Plaintiff John Challas w/cos (be,) (Entered: 04/02/2007)
03/30/2007	● <u>11</u>	Declaration of Christopher Ashworth in Opposition of (RE: related document(s) <u>3</u> Motion to Dismiss Adversary Proceeding). Filed by Plaintiff John Challas w/cos (be,) (Entered: 04/02/2007)
04/04/2007	● <u>12</u>	Declaration of John Challas in Opposition to Motion to Dismiss by Defendant Steven Goetz (NOT FILED) Filed by Plaintiff John Challas (be,) (Entered: 04/05/2007)
04/09/2007	● <u>13</u>	Hearing Held (RE: related document(s) <u>3</u> Motion to Dismiss Adversary Proceeding Filed by Plaintiff John D. Challas. (Attachments: # (1) Memorandum of Points and Authorities) (Zlotoff, Stanley)). Motion to dismiss to be treated as a Motion for Summary Judgment. To be set for an

evidentiary hearing, time estimate 2 hrs. Issue: fair contemplation test. Counsel to contact their witnesses. Contact the Courtroom Deputy to schedule a hearing date. (mem,) (Entered: 05/11/2007)

05/15/2007	● <u>14</u>	Transcript, Date of Hearing: April 9, 2007 <i>defendant's motion</i> . (Palmer, Susan) (Entered: 05/15/2007)
06/12/2007	●	Hearing Continued (RE: related document(s) <u>2</u> Order for Telephonic Status Conference with Certificate of Service. Status Conference to be held on 8/7/2007 at 10:30 AM SanJose Courtroom 3070 - Morgan for <u>2</u> . (mem,) (Entered: 06/14/2007)
06/29/2007	●	Evidentiary Hearing Set On (RE: related document(s) <u>3</u> Motion to Dismiss Adversary Proceeding filed by Plaintiff John Challas). Hearing scheduled for 7/13/2007 at 01:30 PM at SanJose Courtroom 3070 - Morgan. (time estimate - 2 hrs) (mem,) (Entered: 06/29/2007)
06/29/2007	● <u>15</u>	Notice of Hearing (RE: related document(s) <u>3</u> Motion to Dismiss Adversary Proceeding filed by Defendant Steven Goetz). Hearing scheduled for 7/13/2007 at 01:30 PM at SanJose Courtroom 3070 - Morgan. Filed by Plaintiff John Challas . (be,) (Entered: 06/29/2007)
07/02/2007	● <u>17</u>	Document: Association of Counsel. Filed by Plaintiff John Challas. (er,) (Entered: 07/09/2007)
07/05/2007	● <u>16</u>	Document: Association of Counsel . Filed by Plaintiff John Challas , Wendy Vierra, Daniel D. McGee (aw,) (Entered: 07/06/2007)
07/13/2007	● <u>18</u>	Request To Take Judicial Notice . Filed by Plaintiff John Challas (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Exhibit 2# <u>3</u> Exhibit 3# <u>4</u> Exhibit 4# <u>5</u> Exhibit 5# <u>6</u> Exhibit 6) (be,) (Entered: 07/16/2007)
07/13/2007	● <u>19</u>	Additional Request To Take Judicial Notice. Filed by Plaintiff John Challas (Attachments: # <u>1</u> Exhibit 7# <u>2</u> Exhibit 8) (be,) Modified on 7/16/2007 COURT ADDED DOCKET TEXT TO MATCH PDF OF DOCUMENT. (be,). (Entered: 07/16/2007)
07/13/2007	● <u>20</u>	Chronology. Filed by Plaintiff John Challas (be,) (Entered: 07/16/2007)
07/13/2007	●	Evidentiary Hearing Held (RE: related document(s) <u>3</u> Motion to Dismiss Adversary Proceeding Filed by Plaintiff John D. Challas. (Zlotoff, Stanley)). Testimony and evidence presented, trial is concluded. Matter is under submission. (mem,) (Entered: 07/24/2007)
08/07/2007	●	Hearing Continued Prior to Hearing by the Court (RE: related document(s) <u>2</u> Order for Telephonic Status Conference). Status Conference

to be held on 11/6/2007 at 10:30 AM SanJose Courtroom 3070 - Morgan for 2 (mem,) (Entered: 10/31/2007)

10/03/2007	● <u>21</u>	Transcript, Date of Hearing: July 13, 2007 <i>evidentiary hearing on motion to dismiss adversary proceeding</i> . (Palmer, Susan) (Entered: 10/03/2007)
10/19/2007	● <u>22</u>	Memorandum Decision Following Evidentiary Hearing (RE: related document(s) <u>1</u> Notice of Removal filed by Plaintiff John Challas). (be,) (Entered: 10/22/2007)
10/24/2007	● <u>23</u>	BNC Certificate of Mailing - Electronic Order (RE: related document(s) <u>22</u> Memorandum Decision). Service Date 10/24/2007. (Admin.) (Entered: 10/24/2007)
11/01/2007	● <u>24</u>	Notice of Appeal to BAP , Fee Amount \$ 255.. Appellant Designation due by 11/13/2007. Transmission to BAP due by 11/5/2007. Filed by Defendant Steven Goetz (Zlotoff, Stanley) (Entered: 11/01/2007)
11/01/2007	● <u>25</u>	Appellant Designation of Contents For Inclusion in Record On Appeal (RE: related document(s) <u>24</u> Notice of Appeal filed by Defendant Steven Goetz). Appellee designation due by 11/13/2007. (Attachments: # <u>1</u> Certificate of Service) Filed by Defendant Steven Goetz (Zlotoff, Stanley) Modified on 11/2/2007 ERROR: ADDITIONAL DOCKET EVENT SHOULD HAVE BEEN SELECTED. (be,). (Entered: 11/01/2007)
11/01/2007		Receipt of filing fee for Notice of Appeal(06-05197) [appeal,ntcapl] (255.00). Receipt number 4787033, amount \$ 255.00 (U.S. Treasury) (Entered: 11/01/2007)
11/02/2007	● <u>26</u>	Case Management Conference Statement (RE: related document(s) <u>2</u> Order for Telephonic Status Conference). Filed by Defendant Steven Goetz (Attachments: # <u>1</u> Certificate of Service) (Zlotoff, Stanley) Modified on 11/5/2007 CORRECTIVE ENTRY: COURT ADDED LINK TO DOCUMENT #2.(be,). (Entered: 11/02/2007)